

Wetlands Advisory Task Force

MINUTES

JANUARY 11, 2012

1:07PM

701 NW 1 COURT
2ND FLOOR TRAINING ROOM

MEETING CALLED TO ORDER	By Chair at 1:13pm		
MEMBER ATTENDEES	Present: Patricia Baloyra Manuel Echezarreta Jose K Fuentes Jose M. Gonzalez James F. Murley Alice Pena Stephen A Sauls	Absent:	Present Non Voting: Ray Scott, FDAC – Office of Agricultural Water Policy Ron Peekstok, SFWMD Jennifer Smith, FDEP SE District

Agenda topics

WELCOME AND ANNOUNCEMENTS

LEE HEFTY, ASSISTANT DIRECTOR, PERA

DISCUSSION	<p>Chair recognized Lee Hefty for announcements and updates.</p> <p>Mr. Hefty advised members that packets have been prepared with information from this week's meeting and handouts from the meeting of December 19, 2011. He updated the members that the presentations from the December 19th meeting have been posted to the website. He further advised staff on the response from the County Attorney's Office for the question posed regarding 33B and the extent to which this Task Force could make recommendations on changes.</p> <p>Mr. Hefty also advised the members that the discussion items for consideration were sent to them for commenting and edited to include their revisions and comments for discussion today.</p> <p>The Chair discussed with the members the process for presenting the report to commission and the time constraints as it relates to the task force sunseting and reemphasized that in no way does PERA staff nor County administration endorse or oppose anything that has been written thus far. The Chair made a suggestion to recess today's meeting after discussion of the draft comments until the call of the chair and reconvene to complete today's meeting. A recess will suspend the meeting and during that time a formal resolution for extension of the task force may be authorized.</p> <p>Discussion with members.</p> <p>Ms. Pena advised the members that she will be requesting the Board of County Commission for a special hearing to readdress the issue of her feeling that the Task Force has not been operating under the mandate of the Resolution by allowing DERM to be the driving force of the meetings and following suit, rejected all the "recommendations" made in the report.</p> <p>The Chair suggested recessing the meeting at the end of the scheduled meeting time until the call of the chair to reconvene at a later date to complete the meeting at a time that can be established that all members are available to attend. This suggestion was agreed to by all members.</p>
CONCLUSION	Motion passed to recess meeting of 1/11/12 at the end until the call of the Chair.

AGENDA REVIEW

JAMES F. MURLEY – CHAIR – WATF

DISCUSSION	<p>Chair James Murley opened discussion for changes or additions to the current agenda provided. The Chair wanted to add to the report to look back on the resolution and the four areas of assignment to be sure that the recommendations are being put in one of the four areas and insure that the report is organized that way.</p> <p>Motion to set the agenda as made by Manuel Echezarreta and seconded by Jose Gonzalez. Motion passed with unanimous vote.</p>
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APPROVAL OF MINUTES FROM DECEMBER 19, 2011 MEETING

JAMES F. MURLEY – CHAIR – WATF

DISCUSSION	<p>The Chair advised members that draft minutes were presented to them and are now open for corrections/approval.</p> <p>Ms. Pena noted that her comments from the public comment time from the meeting of December 19, 2011 were not included in the minutes, but will accept the minutes as presented.</p> <p>Hearing no amendments, motion was made to accept minutes by Jose Gonzalez and seconded by Manuel Echezarreta. The motion passed by unanimous vote.</p>
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DISCUSSION	<p>The Chair reiterated that the Task Force mandate comes from the resolutions which includes four things: 1) review the process as used in classifying, determining wetlands designations; 2) determining whether the appeals process is fair, adequate and allows for due process; 3) investigate ways of providing enhanced outreach to property owners located in environmentally sensitive areas regarding environmental permitting requirements that may be applicable to their properties; 4) provide advice and recommendations to the Board of County Commissioners regarding revisions to wetlands regulations in Chapter 24 of the Miami-Dade County Code and any DERM fees related thereto.</p> <p>The chair recognized PERA staff to present the comments/recommendations as dictated by the Task Force members. Mr. Davis advised the Chair that the majority of the comments/recommendations fall under item 4 of the resolution and asked for guidance from the Task Force as to the information they would want to use in addressing the remaining mandates of the resolution.</p> <p>Discussion with members and directions to PERA staff for editing of the Task Force report for the next meeting.</p>
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PUBLIC COMMENTS

PUBLIC

DISCUSSION	<p>The Chair opened the meeting for public comments.</p> <p><u>Laura Reynolds – Tropical Audubon Society - 5530 Sunset Drive, Miami, FL</u></p> <p>"Thanks for having public comment although there's a lot of new information in front of me, given the fact that this I don't believe is published on the website, which is a concern because I really haven't had a chance to properly digest it, although I did send in a comment letter and I have extra copies here if anybody would like a copy. I'd love to have that text put into the public comment record if that is possible. I will go briefly through some of the recommendations and again because I don't have this presentation, I don't know the recommendation number per say, but based on the conversation that just occurred. We have concerns, obviously, that what this will do is make it easier for development in some cases. By any means, I am glad that Charles LaPradd brought up that fact that the strategic plan as well as the comp plan protect ag and wetlands. That's what my intention was in putting it in our comment letter. We would like to see that any green space be protected based on the fact that not only do they recharge our aquifer, there's ecosystems that are provided to the County that we really need to consider here. So when you're having this discussion, please consider all of those recommendations that we put in our comment letter in addition to any others before you move forward. I don't know the process of that, but you do have them in front of you. Some of them were really specific and others were cautionary. If you do x then you may lose this value, so again, I'm referring to our comment letter, it should be in your packet. I just wanted you to proceed, not take any votes without reviewing those comments. Specifically, let me just go through, I know I only have 3 minutes, let's go through for example, there was a discussion of 90% exotics and how if you had a degraded property that wouldn't be of equal value, and there would be an equal trade with agriculture. I think that's a poor argument. I think its well documented that any sort of area that has been a wetland in the past can be restored. So just because its currently in poor quality and may have melaleuca or some other exotic doesn't mean that it is not providing those ecosystem services. So take that into consideration when you are making your recommendations it's not pro ag or pro wetlands, but if you have a piece of property it does provides the ability to be restored and so just because it's degraded it doesn't mean it should be exempt if it has 90% exotics. So that was a concern. It is also in the comment letter. Just in general, if you have more presentation, I think you need a clear understanding of how our strategic plan and our comp plan and what you are talking about here would be kind of counter intuitive to each other. I think a more detailed analysis of that is needed, it's quite confusing and because of the local control, we have so many different things going on in this County, maintaining local control is important. If you were just to give us to the state right now and so go ahead you know we want to have ag exempt and everything in your hands. The problem with that is there are so many nuances in Dade County and different things going on that I think we do need to have that local level control in place. So, if you take anything from our comment letter, I think its important to consider those things. Thank you."</p> <p><u>Dalia "Chachy" Castillo – 8 Transylvania Avenue, Key Largo, FL</u></p> <p>"One of the concerns we have is that there seems to be a lot of confusion on the different permits and different things that are within that area. I mean we had an issue with Neighborhood Compliance where they asked us to clear the land. We cleared the land and then we had a problem with DERM who said we shouldn't have cleared the land. So when things like that happen, that makes it very difficult and at the same time becomes very costly for the landowners to be going through these different processes of getting permits and getting fines and then re-getting permits and fines that we were doing when we were told from agency then the other agency says we can't do. So those are really strong issues that I think are really important where there really has to be a good process for the people to know where to follow and who to go to. Please consider also how the agricultural environment is really impacted with these fines and rules that really impede them to do what that agricultural community would really like to do. I think that its really important that they take into consideration...one of the things that you talked about here earlier today with the mitigation for the agriculture that I really think it should be considered differently when it comes to people who are trying to do building zones and stuff like that. Another issue too is that in that community the zoning isn't clear. Like my property in itself is considered un-zoned, you know undetermined. So when you have things like that its difficult because you don't know really which way to proceed and what is the property thing. Like Ms. Alicia was saying earlier, wetlands is very important to our community, it's very important to our environment in general, but its also important to maintain the agriculture and provide a lifestyle for the people that are already in that area really need that support. Thank you."</p> <p><u>Ed Chapman – 12375 SW 202 Avenue</u></p> <p>"I just want to make a couple of brief comments. One, I thought all this stuff would be resolved by now and before my hair turned grey. However, I was curious as to whether rock mines where considered wetlands?"</p>
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Discussion with Staff regarding clarification of the question and response.

"So then rock miners can still dig it up. The county commission just changed the ruling out there and allowed that to go forward. I just want to see if it's a wetland and why the same thing doesn't apply to us because we don't have it. I have 5 acres and an acre and a half what they consider to be wetlands."

Discussion with Staff

"Secondly, mitigation was offered to me 2 years ago which I wasn't told about in the beginning. It was \$57,000 an acre and a check was paid directly with a form to Florida Power and Light and I have copies of the forms. Of course I couldn't afford that. In the judges ruling in my case, she ruled that I'm not a wetlands. They didn't convince her, they didn't show proof. However, I had signed a consent agreement so I'm held to that no matter what and that's a real problem for me as well. I'm not getting any younger and this 90% exotics, some places you have 90% exotics and people have bought and paid for the property with the intent of eventually building a house on it which of course they can't now because its one in 40 acres. I understand that if they bought it knowing that, but since my property was bought, developed and the horses were run on it for 25-30 years beginning in 1975 when the house was built. How they can change that and not consider the entire property grandfathered? Thanks."

James Humble – PO BOX 1509 Homestead, FL

Thanks Chairman Murley, just to discuss very quickly, we passed a resolution, the Ag's Practice Committee, which is comprised of 13 farm groups which also has within that a federal organization and a homeowner group and a farm worker group. We would like these laws to be consistent with state and federal laws. The primary reason being is that there's no way that Dade County, which by the way since I've been in Homestead, has gone from 90,000 acres to 57,000 acres of farming today. 25,000 plus of that land went to the National Park to State owned land. So, of the remaining land, Dade County is the most expensive per acre land in the United States to grow on. Which is why the vegetable crops, which Charles is well aware of, has shrunk tremendously. It used to be vegetable farms in Dade County, now it's nurseries and things of that nature. I happen to be in the tropical fruit business, so I would like to see that consistency. When it comes to mitigation, if farmers are exempt, they don't pay mitigation. So other places in the state, where they are exempt under State law, unlike Dade County, don't pay mitigation for their farmland, which makes perfect sense, but farmers in Homestead have figured out that they can go to Immokalee, Okeechobee, to other areas and farm without having to pay that \$59,000 an acre or whatever it is, which you can't do in farming, its as simple as that. There's no uplift, there just isn't. Anyway, I passed a resolution onto you Mr. Murley if you could give it to this group I would appreciate it. I would certainly like to see the state exemption apply to farming where it would be consistent across the State would make the environment much easier for us to function in. I understand that we are a special county. We are a special county, 85% of the County is owned by the federal and state government. That's a special county, you know, there's a lot of wetlands out there. The remaining land where we farm, we'd certainly like to farm unencumbered by local law. Thank you.

Alina Ramirez – 5000 Monroe Street Hollywood, FL

I am just going to piggy-back on Mr. Humble's comment which is basically pertinent to the conflictive enforcement cases or the catalyst for this task force. Those cases have nothing to do with pristine lands, they have to do with lands that have been historically agricultural lands. We have acquired a lot of land, the government has, the Everglades Park has grown to protect those pristine areas. So now we have these lands whether they're in the C-9 basin or the 8.5 Square Mile Area, which have been traditionally used for agriculture. I'm not as familiar with the C-9 basin as I am with the 8.5 SMA. However, it seems to me that all the land in the 8.5 SMA or at least half the land, because the other half went into eminent domain, precisely to make it pristine, to protect and increase the flow into the Everglades Park. It seems to me that whatever is left, I don't think we should handicap the guys that currently have it as residential as opposed to those that have it as agricultural and in fact if they decide not to plant it for 5 years and then later on decide to plant it..it's their land and its contiguous to other land that is agricultural so I don't think that wewe are handicapping some of the owners in the same contiguous land that has been used historically for the same purposes. It seems to me that if you have this 5 year fallow business, at the end of the 5 years that if it was in terrible condition that you can ask for an extension, basically that land is forever lost to agriculture in the sense of naturally going in to agriculture. Now you have to go into it again the special pretty pretty please can you give me a permit. I think those owners are handicapped, whether they are coming in because they bought new from a person that had it followed for 5 years or whether it's a current owner that didn't plant it for 5 years. So we are talking about attrition. This is going to add to the loss of agriculture. Again, if it's a problem of trying to make sure that we don't prevent water from flowing and its really our intent to protect our aquifer and there are areas that we have identified as totally pristine and we must make sure that those guys never get developed then we should make every effort to buy it. Not penalize the owners that are on that property. That's why we have taxes. If we are going to benefit as a community from those pristine lands and the fact that we are going to protect our aquifers, then we should all pay for to protect them. Not penalize the owner who happens to be sitting on that land and so if we ant to purchase it, then lets go right ahead and purchase it. Ok, so that's it for me."

Steve Carney, President of Carney Environmental – 6435 SW 85 Street Miami, FL

I have had problem with my email today. I meant to get this out to the group sooner, I think there's enough copies to go around. All the items that were on that list in the email we've talked about before. However, there is one additional item which in going through Chapter 24 kind of popped out at me and that's the area of the Bird Drive Basin and the North Trail Basin and SAMP the Special Area Management Plan which I understand now has expired and is no longer in effect. So as I go through Chapter 24, I see parts of that that may be are out dated or inapplicable and so I don't know if there's a need to revisit those and get clarification on them. That's a question that maybe is easily resolved. Again, in going through this I saw a variety of questions and conflicts that I think would trouble the permitted public. Also in regard to farming in wetlands. I currently have before Dade County a permit application for farming in 29 acres. On a informal basis I submitted the preliminary information to 2 state agencies who may or may not be in this room. The one agency, the district after again this all information, nothing has been formalized yet.

	<p>they came back and they said we think you'll have to go through the ERP process. The other agency, FDAC, looked at the same property and they said it appears to me that those wetlands are exempt. However, James Murley seemed a little concerned about how Tallahassee may view those wetlands. They did say, they were discriminating, they said we think these are exempt and these are not. So I think the mechanism, the process works. As far as farming having impact to our aquifers. The west wellfield was built right on top of agricultural land. The ag land was there first. The west wellfield was put on top of that. The Miami Springs Golf Course is the Miami Springs Wellfield. As Patty pointed out, farming does occur in wetlands and those areas still maintain wetland function, a good bit of wetland function by keeping down exotic plants. Lastly, something occurred to me, I don't know if it's an available option, but I heard that Card Sound Road canal is going to be filled ultimately and so there would be a neat way, and it's a county owned canal, a county owned ROMA for situations like this if that's the avenue we go down. Thank you."</p> <p><u>Keri Barsh – 33 Avenue of the Americas</u></p> <p>Thank you, I'm commenting on recommendation number 13 and that is the recommendation to require a wetland review and disclosure for properties outside the Urban Development Boundaries that's required for all properties being sold. A large number of my clients' properties are almost all exclusively outside the UDB and we are aware that they are, in fact, wetlands. So I don't want to have to pay or require that they go through a wetlands determination if I am aware that they are wetlands and want to in fact either sell or buy them. So this would just be a hamper, would be an alienation on title and also it's redundant as those of you may know who participated, there was a supplemental EIS done that was done in 2009-2010 that did evaluate to the extent that where at least federal wetlands and some state input. So relative to that, I think you are going to ultimately get a lot of realtors weighing in adversely on this, but as from a property owner, I don't think that I should be required to in fact undergo wetlands review and disclosure if I know in fact that the properties are wetlands. So I think is onerous and in large part redundant. I understand the theory of why it's done, but I think we need to look at narrowing that substantially from our perspective. Thank you."</p>
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GENERAL DISCUSSION

TASK FORCE MEMBERS

DISCUSSION	<p>Chair recognized the task force members for general discussions.</p> <p>Alice Pena reiterated the reasons why the task force was formed via the resolution of 2011. Ms. Pena also referred to the 1989 law where it was the start of restoration of the Everglades and addressed the 8.5 SMA. She further expressed that the area that should have been protected is not being protected and the fact that the issue has not been addressed by the task force. She also reiterated her requests in earlier meetings requesting the water study hydrology/reviews that show that all of these areas are wetlands. She also stated that she will be addressing these concerning issues directly with the Board of County Commissioners.</p> <p>Steve Sauls stated that while hearing all the concerns of all interested parties, the task force can not do all that everyone wants and is seeking to find a balance for those more traditional areas of farming and a rough maintenance of the existing balance of wetlands vs. not wetlands in the county. The task force has not been established to evaluate the practices, patterns and sciences of all of South Florida, but rather if DERM improperly enforces wetland law, are the impact fees excessive, is the appeals process fair and finally to make recommendations. Mr. Sauls also stated that he would be ok with having a minority report.</p> <p>The Chair explained that the intention for reconvening the meeting would be to review and finalize a page line report based on the resolution, describing the meetings held, and preparing an attached document to include the recommendations that have been discussed.</p> <p>Mr. Sauls motioned that the Chair work along with professional staff in the interim to prepare the recommendations in a working draft manner for the members to discuss. Motion seconded by Jose Fuentes. Motion passed by unanimous vote.</p> <p>Staff asked for specific direction as to what comments/recommendations from the public and other to be included in the draft.</p> <p>Discussion with members</p>
CONCLUSION	<ul style="list-style-type: none"> Motion passes for the Chair to work together with staff to prepare a working draft recommendation document for the members to discuss at the reconvened meeting at the call of the chair

SET AGENDA/POLL MEMBERS FOR NEXT MEETING

TASK FORCE MEMBERS

DISCUSSION	Chair set, after unanimous vote from members present, to recess the meeting to be reconvened at the call of the chair
CONCLUSION	<ul style="list-style-type: none"> Meeting of January 11, 2012 was reconvened by the Chair on February 14, 2012. A motion was made by Manuel Echezarreta to adjourn the meeting of January 11, 2012 and seconded by Patricia Baylora. Motion was passed without objection.
MEETING ADJOURNED	February 14, 2012 at 1:18pm